

MAINE STATE LEGISLATURE

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STATE OF MAINE
119TH LEGISLATURE

SECOND REGULAR SESSION

BILL SUMMARIES
JOINT STANDING COMMITTEE
ON
BANKING AND INSURANCE

JULY 2000

MEMBERS:

Sen. Lloyd P. LaFountain III, Chair
Sen. Neria R. Douglass
Sen. I. Joel Abromson

Rep. Jane W. Saxl, Chair
Rep. Christopher P. O'Neil
Rep. Joseph C. Perry
Rep. Benjamin F. Dudley
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Rep. Kevin J. Glynn
Rep. Robert W. Nutting

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Maine State Legislature
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ONE HUNDRED NINETEENTH LEGISLATURE
SECOND REGULAR SESSION

Summary Of Legislation Before The Joint Standing Committees
July 2000

We are pleased to provide this summary of bills that were considered by the Joint Standing and Select Committees of the Maine Legislature this past session. The document is a compilation of bill summaries which describe each bill and relevant amendments, as well as the final action taken. Also included are statistical summaries of bill activity this session for the Legislature and each of its joint standing and select committees.

The document is organized for convenient reference to information on bills considered by the committees. It is organized by committees and within committees by bill (LD) number. The committee report(s), prime sponsor for each bill and the lead co-sponsor(s), if designated, are listed below each bill title. All adopted amendments are listed by paper number. Two indices, a subject index and a numerical index by LD number are provided for easy reference to bills. They are located at the back of the document. A separate publication, History and Final Disposition of Legislative Documents, may also be helpful in providing information on the disposition of bills. These bill summaries also are available at the Law and Legislative Reference Library and on the Internet (www.state.me.us/legis/opla).

Final action on each bill is noted to the right of the bill title. The abbreviations used for various categories of final action are as follows:

CON RES XXX..... Chapter # of Constitutional Resolution passed by both Houses
CONF CMTE UNABLE TO AGREE..... Committee of Conference unable to agree; bill died
DIED BETWEEN BODIES..... House & Senate disagree; bill died
DIED IN CONCURRENCE..... One body accepts ONTP report; the other indefinitely postpones the bill
DIED ON ADJOURNMENT..... Action incomplete when session ended; bill died
EMERGENCY..... Enacted law takes effect sooner than 90 days
FAILED EMERGENCY ENACTMENT/FINAL PASSAGE..... Emergency bill failed to get 2/3 vote
FAILED ENACTMENT/FINAL PASSAGE..... Bill failed to get majority vote
FAILED MANDATE ENACTMENT..... Bill imposing local mandate failed to get 2/3 vote
NOT PROPERLY BEFORE THE BODY..... Ruled out of order by the presiding officers; bill died
INDEF PP..... Bill Indefinitely Postponed
ONTP..... Ought Not To Pass report accepted
OTP ND..... Committee report Ought To Pass In New Draft
OTP ND/NT..... Committee report Ought To Pass In New Draft/New Title
P&S XXX..... Chapter # of enacted Private & Special Law
PUBLIC XXX..... Chapter # of enacted Public Law
RESOLVE XXX..... Chapter # of finally passed Resolve
UNSIGNED..... Bill held by Governor
VETO SUSTAINED..... Legislature failed to override Governor's Veto

Please note the effective date for all non-emergency legislation enacted in the Second Regular Session (unless otherwise specified in a particular law) is August 11, 2000.

David E. Boulter, Director
Offices Located in the State House, Rooms 101 & 107

arrangements be licensed or expressly permitted by the Superintendent unless the arrangements meet certain criteria under which a downstream entity may operate without licensure or obtain a waiver from the Superintendent. Downstream risk arrangements between a carrier and a downstream entity may operate without licensure if the arrangements do not involve substantial insurance risk or substantial enrollee risk and the arrangements meet specific contractual and disclosure requirements. Substantial insurance risk is defined as risk based on the use or costs of referral services only when the downstream entity is at risk for more than 75% of potential payments by the carrier to the downstream entity. Substantial enrollee risk is defined as an arrangement with a downstream entity involving more than 25% of the enrollees served by the carrier. Downstream risk arrangements that exceed the risk threshold for insurance risk or enrollee risk may request and receive a waiver from licensure from the Superintendent. The waiver request must include a plan for managing financial exposure sufficient to quantify in dollars per quarter and per annum all elements of downstream risk to be assumed by the downstream entity.

LD 2043

An Act to Clarify Underinsured Motor Vehicle Coverage

PUBLIC 663

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LAFOUNTAIN SAXL J	OTP-AM	S-572

LD 2043 was recommitted to the Joint Standing Committee on Banking and Insurance near the end of the First Regular Session and carried over to the Second Regular Session. LD 2043 proposed to amend the laws governing underinsured vehicle coverage to address certain cases when more than one person is injured in an accident. It proposed to amend the provision of law construed in Mullen v. Liberty Mutual Insurance Co., 589 A.2d 1275 (Me. 1991) to deny a consumer the full benefit of the purchased insurance coverage in certain circumstances.

In Mullen v. Liberty Mutual Insurance Co., the Supreme Judicial Court determined that under current law the victim of a negligent motorist may be denied the full benefit of the uninsured motorist insurance purchased if multiple people are injured. LD 2043 proposed to amend the provision of law construed in Mullen to ensure that a person who is injured in an automobile accident is covered to the full extent of the underinsured motorist coverage purchased by the injured person when the insurance policy of the negligent motorist does not cover the injured person's claims.

Committee Amendment "B" (S-572) replaced the bill. The amendment proposed to require that, in instances when more than one person is injured in a motor vehicle accident involving an underinsured motor vehicle, the amount of underinsured vehicle coverage available to the injured person is determined by subtracting any payments actually made to the injured person under the motor vehicle liability policy applicable to the particular owner or operator of the underinsured motor vehicle from the injured person's, operator's or owner's underinsured vehicle coverage policy limits if applicable to that person. The amount of recovery must also be reduced by the amount by which the policy limits of the motor vehicle liability policy covering the underinsured motor vehicle exceed the total payments made under that policy to injured persons.

The amendment also proposed to clarify that the requirement that uninsured motor vehicle coverage limits equal the amount of liability coverage under a policy unless lower amounts are expressly rejected applies to personal motor vehicle insurance coverage and not to commercial coverage. It adds a provision governing the manner and time frame in which purchasers of personal motor vehicle insurance coverage may reject

equal amounts of coverage. It also specifies the language that must be included in the rejection form provided to purchasers by insurers. The amendment makes this provision applicable to all motor vehicle liability policies issued or renewed on or after October 1, 2000.

The amendment also proposed to add an emergency preamble and emergency clause to the bill.

Enacted law summary

Public Law 1999, chapter 663 amends the statutory provisions governing underinsured vehicle coverage in situations when more than one person is injured in a motor vehicle accident involving an underinsured motor vehicle. In these situations, the law requires that the amount of underinsured vehicle coverage available to the injured person is determined by subtracting any payments actually made to the injured person under the motor vehicle liability insurance policy applicable to the particular owner or operator of the underinsured motor vehicle from the injured person's, operator's or owner's underinsured vehicle coverage policy limits if applicable to that person. The amount of recovery must also be reduced by the amount by which the policy limits of the motor vehicle liability insurance policy covering the underinsured motor vehicle exceed the total payments made under the policy to the injured person.

Public Law 1999, chapter 663 also clarifies the provision in Public Law 1999, chapter 271 requiring that the uninsured motor vehicle coverage limits of a motor vehicle insurance policy equal the amount of liability coverage under the policy unless lower amounts of coverage are expressly rejected. Public Law 1999, chapter 663 makes clear that this requirement applies to personal motor vehicle insurance coverage and not to commercial coverage. It prescribes the manner and time frame in which purchasers of personal motor vehicle insurance coverage may reject equal amounts of coverage and specifies the language that must be included in the rejection form provided to purchasers by insurers. Finally, Public Law 1999, chapter 663 delays the implementation of the requirement for equal amounts of coverage for uninsured coverage and liability coverage to all personal motor vehicle liability insurance policies issued or renewed on or after October 1, 2000.

Public Law 1999, chapter 663 was enacted as an emergency effective April 11, 2000.

LD 2058

An Act Relative to Insurance Compliance Self-audit

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MAYO ABROMSON	ONTP	

LD 2058, which was carried over from the First Regular Session, proposed to create a privilege for self-audit documents maintained by insurers to monitor and facilitate compliance with the Maine Insurance Code. The bill proposed to limit discovery of the self-audit documents in civil, criminal or administrative proceedings against an insurer except in certain circumstances. The bill also proposed to make self-audit documents submitted to the Bureau of Insurance confidential after submission and to specify that the self-audit privilege is not waived after submission of the documents. The bill would not have extended the privilege in civil fraud cases or in criminal proceedings if a court ordered disclosure after review of the documents in camera.